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Before the
FEDERAL COMMUNICATIONS COMMISSION JAN - 6 2004
Washington, D.C. 20554

Federal Communication Commission
Bureau / Office

In the Matter of)

)
Amendment of Section 73.622(b),
Table of Allotments,)
Digital Television Broadcast Stations.)
(Corpus Christi, Texas))

MM Docket No. 99-277
RM-9666

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FEB 17 2004

To: Chief, Video Division, Media Bureau:

Federal Communications Commission
Office of the Secretary

COMMENTS IN SUPPORT OF PETITION FOR RECONSIDERATION

1. The Community Broadcasters Association ("CBA") hereby strongly supports the Petition for Reconsideration being filed in this proceeding by Channel 7 of Corpus Christi, Inc. ("Channel 7"), licensee of Class A-eligible Station KTOV-LP, Corpus Christi, Texas.

2. There was a clear violation of the Community Broadcasters Protection Act of 1999 ("CBPA") in the Report and Order, when the Commission ignored the fact that KTOV-LP is Class-A eligible and thus entitled to protection of its spectrum unless the full power station seeking a change of DTV allotment can demonstrate the existence of technical problems that require an engineering solution. See 47 USC Sec. 336(f)(1)(D). As demonstrated by Channel 7, there is no problem here except the economic convenience of a full power station that wishes to save money on constructing and operating costs by moving its DTV channel from the UHF band to the VHF band. The economic convenience of a full power licensee was in no way what Congress had in mind when allowing for a "safety-net" that would prevent Class A stations from standing in the way of resolution of difficult full power engineering issues.

3. The CBPA does not include a blank ticket for full power stations to move from the UHF to the VHF band. But that is how the Commission appears to have acted in this

proceeding. Under the CPBA, it makes no difference when Channel 7 filed its comments, or even whether Channel 7 filed anything at all. Nor does it matter that CBA did not participate earlier in this proceeding. The statute lays out how the Commission must act, and the Commission committed a fatal legal error when it failed to apply the clear terms of the statute here.¹

4. Accordingly, the allotment of DTV Channel 8 to Corpus Christi must be rescinded.

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Respectfully submitted,



Peter Tannenwald
Jason S. Roberts

January 6, 2004

Counsel for the Community
Broadcasters Association

¹ The situation is even worse here, because the full power station indicated in its own filings that it is not committed to use VHF Channel 8 as a permanent home for its DTV facilities, and it may move to its DTV operations to its analog Channel 3 after the transition, thus underscoring how little need there is for the Channel 8 DTV allotment.

CERTIFICATE OF SERVICE

I, Daniella K. Mattioli Knight, do hereby certify that I have, this 6th day of January , 2004, caused to be sent by first class United States mail, postage prepaid, copies of the foregoing "Petition for Reconsideration" to the following:

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Note: Service is hereby accepted by Irwin, Campbell & Tannenwald, P.C., on behalf of Channel 7 of Corpus Christi, Inc. and Sound Leasing, Inc.


Daniella K. Mattioli Knight